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| APPLICATION NO. | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
|---|-------------|----------------------|---------------------|------------------|
| 10/659,207 | 09/09/2003 | Steven E. Cwirla | 44368-0003 US C1 | 4104 |
| 25213 7590 06/03/2008 HELLER EHRMAN LLP 275 MIDDLEFIELD ROAD MENLO PARK, CA 94025-3506 | | | | |
| EXAMINER | | | | |
| XIE, XIAOZHEN | | | | |
| ART UNIT | | PAPER NUMBER | | |
| 1646 | | | | |
| MAIL DATE | | DELIVERY MODE | | |
| 06/03/2008 | | PAPER | | |

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary

Application No.

10/659,207

Applicant(s)

CWIRLA ET AL.

Examiner

XIAOZHEN XIE

Art Unit

1646

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 13 February 2008.
2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 162-164 and 166-178 is/are pending in the application.
4a) Of the above claim(s) 171-174 is/are withdrawn from consideration.
5) ☐ Claim(s) _____ is/are allowed.
6) ☒ Claim(s) 162-164, 166-170 and 175-178 is/are rejected.
7) ☐ Claim(s) _____ is/are objected to.
8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
10) ☒ The drawing(s) filed on 09 September 2003 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
2) ☒ Notice of Draftsperson's Final Drawing Review (PTO-849)
3) ☐ Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date _____
4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date _____
5) ☐ Notice of Informal Patent Application
6) ☐ Other: _____

DETAILED ACTION

Response to Amendment

Applicant's amendment of the claims filed 13 February 2008 has been entered.

Claims 1-161 and 165 are cancelled. Claims 162-164 and 166-178 are pending. Claims 171-174 are withdrawn from further consideration pursuant to 37 CFR 1.142(b) as being drawn to a nonelected invention. Claims 162-164, 166-170 and 175-178 are under examination.

Claim Objections Withdrawn

The objections to claims 167 and 170 for informalities are withdrawn in response to Applicant's amendment of the claims.

The rejection of claims 162-170 and 175-178 under 35 U.S.C. § 112, first paragraph, as failing to comply with the written description requirement, is withdrawn in response to Applicant's amendment of the claims.

The rejection of claims 162-170 and 175-178 under 35 U.S.C. 112, first paragraph, as failing to comply with the enablement requirement, is withdrawn in response to Applicant's amendment of the claims.

New Grounds of Rejections

Claim Rejections - 35 USC § 112

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claims 162-164, 166-170 and 175-178 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Claim 162 recites a compound comprising a peptide chain having a sequence of amino acids "CX^{IV}₁...X^{IV}₁₀C" that binds to a G-CSFR, wherein said sequence of amino acids is selected from the group consisting of SEQ ID Nos: 209-212, 343, and 464. However, the structural formula of "CX^{IV}₁...X^{IV}₁₀C", which has 10 amino acid residues between the two cysteines, does not apply to all of the sequences recited in the SEQ IDs, e.g., SEQ ID NOs: 212, 343 and 464 have 11, 6 and 3 residues between the two cysteines, respectively.

Claims 163, 164, 166-170 and 175-178 are rejected insofar as they depend on claim 162.

Claim Objections

Claim 162 is objected to because of the following informalities:

Claim 162 recites peptide or nucleotide sequences (CX^{IV}₁...X^{IV}₁₀C) that require sequence identifiers.

Appropriate correction is required.

Conclusion

NO CLAIM IS ALLOWED.

Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Xiaozhen Xie, Ph.D whose telephone number is 571-272-5569. The examiner can normally be reached on M-F, 8:30-5.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Gary B. Nickol, Ph.D. can be reached on 571-272-0835. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Art Unit: 1646

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Xiaozhen Xie, Ph.D.
May 22, 2008

/Elizabeth C. Kemmerer/
Primary Examiner, Art Unit 1646